

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

RONALD A. POLK,

Plaintiff,

Case No. 14-cv-13352

v

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

MONTCALM COUNTY 64B DISTRICT COURT,
and ART SMITH,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION, DISMISSING
PLAINTIFF'S COMPLAINT AND DIRECTING PLAINTIFF TO OBTAIN LEAVE OF
COURT PRIOR TO FILING FURTHER LAWSUITS**

On August 28, 2014, Plaintiff Polk filed a pro se Complaint pursuant to 42 U.S.C. § 1983. He alleges that Defendants wrongfully withheld his Social Security Disability benefits and violated the Fourteenth Amendment by extending his sentence solely because he was unable to pay restitution.

On September 12, 2014, Magistrate Judge Patricia T. Morris issued a report recommending that Plaintiff's Complaint be dismissed *sua sponte* because Plaintiff was a "prolific litigator" who had abused the *in forma pauperis* statute. Rep. & Rec. 2, ECF No. 6. She noted that Plaintiff had previously brought four merit-less lawsuits, and that he had been enjoined from filing additional lawsuits without first requesting permission. *Id.* Plaintiff did not request permission to file a lawsuit here, and Judge Morris therefore recommended dismissal. *Id.* In light of Plaintiff's history of filing merit-less lawsuits, she further recommended that "if Plaintiff wishes to bring a complaint to this Court in the future, he must present, in addition to the complaint, the following: (1) a motion for permission to file the pleading; (2) an affidavit

demonstrating that his allegations have merit and are not repetitious of previous complaints; and (3) a copy of the Court's final order on this matter." *Id.* at 3.

Although the Magistrate Judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendant filed any objections. The election not to file objections to the Magistrate Judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation (ECF No. 6) is **ADOPTED**.

It is further **ORDERED** that Plaintiff's Complaint (ECF No. 1) is **DISMISSED WITH PREJUDICE**.

It is further **ORDERED** that before Plaintiff files a lawsuit in this Court, he must file: (1) a motion for permission to file the pleading; (2) an affidavit demonstrating that his allegations have merit and are not repetitious of previous complaints; and (3) a copy of the Court's final order on this matter.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: October 2, 2014

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail and on Ronald A. Polk, 5740 W. Curtis, Coleman, MI 48618 by first class U.S. mail on October 2, 2014.

s/Tracy A. Jacobs
TRACY A. JACOBS